

(c) The HUBZone SBC must certify that it will ensure that it will comply with certain contract performance requirements in connection with contracts awarded to it as a qualified HUBZone SBC, as set forth in § 126.700.

**§ 126.201 For this purpose, who does SBA consider to own a HUBZone SBC?**

An owner of a HUBZone SBC is a person who owns any legal or equitable interest in such HUBZone SBC. More specifically:

(a) *Corporations.* SBA will consider any person who owns stock, whether voting or non-voting, to be an owner. SBA will consider options to purchase stock to have been exercised. SBA will consider the right to convert debentures into voting stock to have been exercised.

(b) *Partnerships.* SBA will consider a partner, whether general or limited, to be an owner if that partner owns an equitable interest in the partnership.

(c) *Sole proprietorships.* The proprietor is the owner.

(d) *Limited liability companies.* SBA will consider each member to be an owner of a limited liability company.

*Example 1:* All stock of a corporation is owned by U.S. citizens. The president of the corporation, a non-U.S. citizen, owns no stock in the corporation, but owns options to purchase stock in the corporation. SBA will consider the option exercised, and the corporation is not eligible to be a qualified HUBZone SBC.

*Example 2:* A partnership is owned 99.9 percent by persons who are U.S. citizens, and 0.1 percent by someone who is not. The partnership is not eligible because it is not 100 percent owned by U.S. citizens.

**§ 126.202 Who does SBA consider to control a HUBZone SBC?**

Control means both the day-to-day management and long-term decision-making authority for the HUBZone SBC. Many persons share control of a concern, including each of those occupying the following positions: officer, director, general partner, managing partner, and manager. In addition, key employees who possess critical licenses, expertise or responsibilities re-

lated to the concern's primary economic activity may share significant control of the concern. SBA will consider the control potential of such key employees on a case by case basis.

**§ 126.203 What size standards apply to HUBZone SBCs?**

(a) *At time of application for certification.* A HUBZone SBC must meet SBA's size standards for its primary industry classification as defined in § 121.201 of this title. If SBA is unable to verify that a concern is small, SBA may deny the concern status as a qualified HUBZone SBC, or SBA may request a formal size determination from the responsible Government Contracting Area Director or designee.

(b) *At time of contract offer.* A HUBZone SBC must be small within the size standard corresponding to the SIC code assigned to the contract.

**§ 126.204 May a qualified HUBZone SBC have affiliates?**

Yes. A qualified HUBZone SBC may have affiliates so long as the affiliates are also qualified HUBZone SBCs, 8(a) participants, or WOBs.

**§ 126.205 May WOBs, 8(a) participants or SDBs be qualified HUBZone SBCs?**

Yes. WOBs, 8(a) participants, and SDBs can qualify as HUBZone SBCs if they meet the additional requirements in this part.

**§ 126.206 May non-manufacturers be qualified HUBZone SBCs?**

Yes. Non-manufacturers (referred to in the HUBZone Act of 1997 as "regular dealers") may be certified as qualified HUBZone SBCs if they meet all the requirements set forth in § 126.200 and they can demonstrate that they can provide the product or products manufactured by qualified HUBZone SBCs. "Non-manufacturer" is defined in § 121.406(b)(1) of this title.

**§ 126.207 May a qualified HUBZone SBC have offices or facilities in another HUBZone or outside a HUBZone?**

Yes. A qualified HUBZone SBC may have offices or facilities in another HUBZone or even outside a HUBZone and still be a qualified HUBZone SBC.

## **§ 126.300**

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However, in order to qualify, the concern's principal office must be located in a HUBZone.

### **Subpart C—Certification**

#### **§ 126.300 How may a concern be certified as a qualified HUBZone SBC?**

A concern must apply to SBA for certification. The application must include a representation that it meets the eligibility requirements described in § 126.200 and must submit relevant supporting information. SBA will consider the information provided by the concern in order to determine whether the concern qualifies. SBA, in its sole discretion, may rely solely upon the information submitted to establish eligibility, or may request additional information, or may verify the information before making a determination. If SBA determines that the concern is a qualified HUBZone SBC, it will issue a certification to that effect and add the concern to the List.

#### **§ 126.301 Is there any other way for a concern to obtain certification?**

No. SBA certification is the only way to qualify for HUBZone program status.

#### **§ 126.302 When may a concern apply for certification?**

A concern may apply to SBA and submit the required information whenever it can represent that it meets the eligibility requirements, subject to § 126.309. All representations and supporting information contained in the application must be complete and accurate as of the date of submission. The application must be signed by an officer of the concern who is authorized to represent the concern.

#### **§ 126.303 Where must a concern file its certification?**

The concern must file its certification with the AA/HUB, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

#### **§ 126.304 What must a concern submit to SBA?**

(a) To be certified by SBA as a qualified HUBZone SBC, a concern must

represent to SBA that under the definitions set forth in § 126.103:

(1) It is a small business concern that is both owned only by United States citizens and controlled only by United States citizens;

(2) Its principal office is located in a HUBZone;

(3) Not less than 35 percent of its employees reside in a HUBZone;

(4) It will use good faith efforts to ensure that a minimum percentage of 35 percent of its employees continue to reside in a HUBZone so long as SBA certifies it as qualified and during the performance of any contract awarded to it on the basis of its status as a qualified HUBZone SBC; and

(5) It will ensure that, where it enters into subcontracts to aid in performance of any prime contracts awarded to it because of its status as a qualified HUBZone SBC, it will incur not less than a certain minimum percentage of certain contract costs as set forth in § 126.700.

(b) If the concern is applying for HUBZone status based on a location within the external boundaries of an Indian reservation, the concern must submit with its application for certification official documentation from the appropriate Bureau of Indian Affairs (BIA) Land Titles and Records Office with jurisdiction over the concern's area, confirming that it is located within the external boundaries of an Indian reservation. BIA lists the Land Titles and Records Offices and their jurisdiction in 25 CFR 150.4 and 150.5. In cases where BIA is unable to verify whether the business is located within the external boundaries of an Indian reservation, applicants should contact the AA/HUB and SBA will assist them.

(c) In addition to these representations, the concern must submit the forms, attachments, and any additional information required by SBA.

#### **§ 126.305 What format must the certification to SBA take?**

A concern must submit the required information in either a written or electronic application form provided by SBA. An electronic application must be sufficiently authenticated for enforcement purposes.